Summary - 2009 Update to the Local Rules

The following is a brief listing/summary of local rule changes effective December 1, 2009.

A. Substantive Changes

2002-2: Negative Notice Procedure (**NEW**)

This new rule was patterned from Florida Middle. It provides a list of applicable items where negative notice is appropriate and the process to be used.

2081-1: Chapter 11 General

Various changes were made to reiterate the proper processes to be used in Chapter 11 cases. These include provisions directing compliance with Admin. Order 05-001 and instructing debtors not engaged in business about proper conditions, terms, and requirements.

2083-1: Chapter 13 General

For Chapter 13 business cases, the current rule just referred back to Chapter 12 LR 2082-1. Changes made to add complete rule language to fully outline applicable procedures for Chapter 13.

2090-1: Attorneys – Admission to Practice

Changes were made to clarify the process for Pro Hac Vice status via the USDC admission process and to make sure admission is proper for the services being rendered.

3001-1/3002.1-1: Proof of Claim/Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence (**NEW**)

These local changes incorporate, for the most part, proposed national rules that are not scheduled to become effective until December 2011. The intent is to assist in the meantime with the growing issues being seen in this area.

3002-1: Filing Proof of Claim or Interest (**NEW**)

This new rule establishes a time period and procedure for secured creditors to file claims for deficiencies upon surrender of collateral in a Chapter 13 Plan.

4001-1: Automatic Stay – Relief From

This change includes a new requirement for the movant to a file a document noting the debtor's payment history.

<u>4001-4: Automatic Stay – Co-Debtor Relief From</u> **(NEW)**

This rule is very similar to Rule 4001-1, but incorporates the specific aspects of co-debtor stay issues under Section 1301.

<u>4004-1: Grant or Denial of Discharge</u>

Chapter 13 DSO certification found in B. is required by other chapters as well. Therefore, new sections have been added for Chapters 11 and 12. In addition, statements pertaining to 522(q) and Bankruptcy Rule 1007(b)(8) have also been added for all Chapters.

<u>7005-3: Service by Electronic Means Under Rule 5(b)(2)(D)</u> **(NEW)**

Inclusion of a new rule patterned from FL-M was submitted during the suggestion period. Similar provisions are already stated in our Admin. Procedures for Electronic Filing (II.B) and the agreement portion of the ECF user registration form (item 7). The decision was made to not pursue this suggestion, but rather to add the Administrative Procedures as Addendum C to the rules.

<u>9014-1: Witnesses and Evidentiary Hearings</u>

Clarifying language added to note the need for an estimated amount of time required for an evidentiary hearing so that proper noticing can occur and unnecessary delays are avoided.

<u>9037-1: Privacy Protection for Filings Made with the Court</u>

This change includes language to note the process required when filing a motion for protective order so that sensitive and/or private information "mistakenly" included in a filing can be redacted by the filer in line with Judicial Conference policy.

<u>9070-1: Exhibits</u>

These changes focus on clarifying filing requirements for exhibits via ECF and when they are to be filed/provided.

<u>9072-1: Orders</u>

These changes note the requirement to submit proposed orders via the new ECF link or ECF Central and the need to submit all proposed orders within three business days after the hearing or response deadline date.

B. Time Computation Related Adjustments – These generally parallel the national changes that will take effect 12/1/09, except that most 15 day deadlines have been changed to 21 days instead of the 14 days being used at the national level.

Those impacted are:

2016-1; 2081-1; 2082-1; 2090-1; 3012-1; 3017-1; 5011-1; 6007-1; 7008-1; 9015-1

November 2009 Modifications to Initial Changes:

1019-1.B / Conversions: In reviewing procedures prior to the 12/1/09 effective date, it was noted that the new 21 day deadline conflicted with the national 14 day deadline for the referenced form. Therefore, the deadline to submit the B22 form will now be 14 days.

4001-1.C / Automatic Stay – Relief From: In reviewing procedures prior to the 12/1/09 effective date, the decision was made to retain the established 15 day deadline to file a response rather than the suggested 21 days in order to stay with current practice and adhere to applicable §362 time frames.

9013-1.B / Briefs and Memoranda of Law: In reviewing procedures prior to the 12/1/09 effective date, the decision was made to retain the established 15 day deadline to file an objection rather than the suggested 21 days in order to stay with current practice as adopted from the U.S. District Court.

(Note: while time periods are included in these local rule provisions, no changes are required as they fall outside the scope of the time computation project - 1015-1; 2016-1.A(1)(b); 2081-1.B(2)(b); 2082-1.A(4); 3007-1.G; 3012-1.B(4); 3012-1.E; 3020-1.A and B; 4001-3.4003-2; 5011-2; 7007-1; 7041-1; 7054-1; 9070-1.A and G. In addition as FYI, legislative changes to applicable and related code provisions in Title 11 have been made with an effective date of 12/1/09.)

C. Minor Corrections/Edits

1001-1; 1006-1 **(new);** 1007-1; 1007-2; 1009-1; 1017-2; 1019-1; 2015-2; 2082-1; 3012-1; 3015-1; 3017-2; 3020-1; 4001-3; 4003-2; 5081-1; 7055-1; 9004-2; 9013-2; 9015-1; 9070-1.

November 2009 Edit to Original Text:

5011-1.A.1 / Withdrawal of Reference: In reviewing procedures prior to the 12/1/09 effective date, it was noticed that the term "revoke" in the last sentence of this subsection should be replaced with "withdraw" and this edit has been made.

D. New Addendum

Based on bar feedback, this frequently referenced item, "Standing Order #11 and the Administrative Relating to Procedures for Electronic Case Filing", has been added as new Addendum C. so that fewer steps will be required to be used when referring to it.